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In re Application of
Angelopoulos et al.
Application No. 09/346,353
Filed: July 2, 1999
Attorney Docket No. YO996-049BX

DECISION ON PETITION

This is a decision on the renewed petition, filed August 4, 2008, which is being treated as a petition under 37 CFR 1.8(b), requesting withdrawal of the holding of abandonment in the above-identified application.

The petition is **GRANTED**.

This above-identified application was held abandoned for failure to timely file a response to the non-final Office action which was mailed on December 13, 2006. The non-final Office action set a three (3) month shortened statutory period for reply. A Notice of Abandonment was mailed on July 23, 2007. A petition under 37 CFR.1 181 was dismissed on June 19, 2008.

Petitioner states that a timely reply was mailed via certificate of mailing on June 13, 2007, which included the following papers: amendment, three month extension of time and check. Petitioner has submitted a copy of the previously mailed correspondence, which bears a certificate of mailing dated June 13, 2007, which would have rendered the reply timely if received. Petitioner has also provided a postcard receipt dated July 11, 2007.

Failure to receive correspondence which includes a certificate of mailing or certificate of facsimile transmission is addressed in 37 CFR 1.8(b), reproduced below:

In the event that correspondence is considered timely filed by being mailed or transmitted in accordance with paragraph (a) of this section, but not received in the U.S. Patent and Trademark Office after a reasonable amount of time has elapsed from the time of mailing or transmitting of the correspondence, or after the application is held to be abandoned, or after the proceeding is dismissed, terminated, or decided with prejudice, the correspondence will be considered timely if the party who forwarded such correspondence:

- (1) Informs the Office of the previous mailing or transmission of the correspondence promptly after becoming aware that the Office has no evidence of receipt of the correspondence;

- (2) Supplies an additional copy of the previously mailed or transmitted correspondence and certificate; and
- (3) Includes a statement which attests on a personal knowledge basis or to the satisfaction of the Director to the previous timely mailing or transmission. If the correspondence was sent by facsimile transmission, a copy of the sending unit's report confirming transmission may be used to support this statement.

The petition satisfies the above requirements of 37 CFR 1.8(b). Accordingly, the holding of abandonment for failure to timely file a reply to the Office action of December 13, 2006 is hereby withdrawn and the application restored to pending status.

The copy of the reply received with the petition will be accepted in place of the reply shown to have been mailed (or transmitted by facsimile) on June 13, 2007.

This application is being referred to Technology Center AU 1714 for appropriate action in the normal course of business on the reply received with petition.



Charlema Grant
Petitions Attorney
Office of Petitions